

rejected under 35 U.S.C. § 102(e)* as being anticipated by Davis et al. U.S. Patent No. 5,576,755 (hereinafter "Davis").

Claims 5, 14, and 46 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Davis.

Interview Summary

The undersigned agent and the Examiner conducted a telephonic interview on the merits of the instant application on January 28, 2003 (hereinafter "the Interview"). Applicants and the undersigned agent would like to thank the Examiner for the courtesies extended during the Interview. During the Interview, the undersigned agent argued that the Examiner's basis for rejecting applicants' claims was improper (as explained below). The Examiner agreed to reconsider the rejections.

Applicants' Reply to the Rejection of Independent Claims 1, 10, and 42

The Examiner rejected claims 1, 10, and 42 under 35 U.S.C. § 102(e) as being anticipated by Davis. The Examiner's rejection is respectfully traversed.

* Because Davis issued on November 19, 1996, and the instant application's earliest effective priority date is October 10, 1997, applicants presume the Examiner intended to reject the claims under 35 U.S.C. § 102(a).

Applicants' invention, as defined by independent claims 1, 10, and 42, is directed towards a system, a method, and machine-readable media for error-checking program data when constructing program schedules in real-time. Program schedules are constructed at television system computers using program data accessed from a database. As the program schedules are being constructed by personnel, they are error-checked in real-time by at least one of the television system computers. For example, as someone is placing a program listing in a particular time slot (e.g., by dragging and dropping), applicants' claimed invention will perform an error-check to make sure that placing the program listing into that time slot is appropriate. If not, an error message may be displayed and the action will not be allowed to complete, for example.

The relevant portions of Davis refer to a verification system that checks for errors in program guide data used to construct program guides. Program guide data goes through an initial pre-verification process. Program schedule listings are then constructed. After construction, the program schedule listings are subjected to a listing verification procedure.

The Examiner indicates that applicants' arguments, filed on November 19, 2002, are not persuasive. In particular, the Examiner contends that

... the operator continually checks at least errors involving spacing, spelling, font, punctuation, margin justification, etc., either personally or by word processor software, all while he generates/constructs the text data, such being inherent and not needed to be stated by Davis

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Under 35 U.S.C. § 102 a rejected claim must be anticipated by the reference. "[T]he reference must teach every aspect of the claimed invention either explicitly or impliedly. Any feature not directly taught must be inherently present." MPEP § 706.02.

Davis, as admitted by the Examiner, does not directly teach having a television system computer perform error-checking on program schedules in real-time as the program schedules are being constructed by personnel. The Examiner, rather, contends that Davis inherently teaches this feature. Contrary to the Examiner's contention, inherency may not be established by possibilities. "The mere fact that a certain thing may result from a given set of circumstances is not sufficient." Continental Can Co. USA v. Monsanto Co., 948 F.2d 1264, 1268 (Fed. Cir. 1991). When a reference is silent about an asserted inherent

characteristic, evidence that the missing descriptive matter is necessarily present is required. See id.

Applicants respectfully submit that the Examiner has failed to provide any such evidence with respect to his contention.

Moreover, as discussed during the Interview, applicants' claimed invention requires that a television system computer be configured to perform error-checking in real-time. Having an operator manually check text data has nothing to do with using a television system computer to perform error-checking in real-time. With respect to using a word-processor, applicants respectfully submit that the Examiner has failed to point to any reference that shows using a word-processor to construct program schedules on a television system computer, such that the word-processor performs error-checking of the program schedules in real-time. Davis certainly does not show this. Therefore, even if the Examiner's contention with respect to what is inherent in Davis is assumed to be valid, Davis still does not show the features of applicant's claimed invention.

For at least the foregoing reasons, applicants respectfully submit that claims 1, 10, and 42 are allowable. Applicants respectfully request that the rejection of claims 1, 10, and 42 be withdrawn.

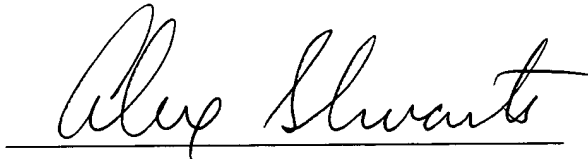
Applicants' Reply to the Rejection of Claims 2-9, 11-18,
and 43-50

Claims 2-9, 11-18, and 43-50 depend from independent claims 1, 10, and 42 and are allowable because independent claims 1, 10, and 42 are allowable. Applicants respectfully request that the rejection of claims 2-9, 11-18, and 43-50 be withdrawn.

Conclusion

Applicants respectfully submit that this application is in condition for allowance. Accordingly, prompt reconsideration and allowance of this application are respectfully requested.

Respectfully submitted,

A handwritten signature in cursive script, reading "Alex Shvarts", is written over a horizontal line.

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